

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2007

CORAM:

THE HONOURABLE MR.JUSTICE K.N.BASHA

CRL.O.P.No.1562 of 2007
& M.P.No.1 & 4 of 2007

Arunkumar . Petitioners/Accused 4

Vs.

1. State Sub Inspector of Police,
W-31, All Women Police Station,
Alandur, Chennai - 600 016.
(Crime No.4 of 2006) . Respondent/Complainant

2. Sangeetha . Respondent/Defacto complainant
(R2 impleaded as per the order of this
Court dated 19/2/07 in MP.No. 3/07)

Prayer : Criminal Original Petition filed under Section 482 of the
Criminal Procedure Code, praying to call for the records and in
C.C.No.654 of 2006 on the file of the learned Judicial Magistrate
No.II, Poonamallee and quash the proceedings relating to the
petitioner.

* * *

For Petitioner : Mr.A.Ragunathan, Senior Counsel for
Mr.T.I.Ramanathan

For Respondent-1: Mr.A.Saravanan
Government Advocate (Crl. Side)

For Respondent-2: Mr.S.N.Thangaraj, for
M/s.N.Damodaran

ORDER

Mr.A.Ragunathan, learned senior counsel for the petitioner
submits that the petitioner has been arrayed as A-4 out of four
accused and he has come forward with this petition seeking the relief
of quashing the proceedings initiated against the petitioner along
with other accused for the offences under Section 498-A and 506 (ii)
I.P.C. and under Section 4 of Dowry Prohibition Act.

2. It is vehemently contended by the learned counsel for the petitioner that there is absolutely no allegation neither in the complaint nor in the statement recorded from the defacto complainant under Section 161 Cr.P.C. making out the ingredients of the offence under Section 498-A I.P.C. It is contended by the learned senior counsel that the defacto complainant was residing separately and the petitioner is owing his own house and she used to come to the house of the petitioner to create problems. It is also contended by the learned senior counsel that there are certain allegations containing in the complaint and in the 161 Cr.P.C. statement of the defacto complainant only to the extent of implicating the petitioner herein for the allegation that the petitioner has abused and ill-treated the defacto complainant. But there is absolutely no allegation to the effect that the petitioner ill-treated or treated the defacto complainant cruelly for the purpose of demanding dowry. The learned senior counsel also placed reliance on the decisions of the Supreme Court in Ramesh V. State of T.N. reported in 2005 SCC (Cri.) 735 for the proposition that if there are allegations against a particular person either sister-in-law or brother-in-law or co-brother only relating to causing insult, making derogatory remarks and behaving rudely against informant and pertaining to dowry demand or entrustment and misappropriation of the property belonging to her, then the offence of 498-A or 406 I.P.C. and Section 4 of the Dowry Prohibition Act, are not made out.

3. Per contra, learned Government Advocate (Crl. Side) submitted that there are specific and definite allegations revealed against the petitioner herein who has been arrayed as A-4 in this case. It is pointed out by the learned Government Advocate (Crl. Side) that in the complaint itself the defacto complainant has clearly and categorically stated that the petitioner, brother-in-law of the defacto complainant, along with her husband, mother-in-law, father-in-law joined together and ill-treated the defacto complainant and demanding 100 sovereign of jewellery and Rs.1,00,000/- as dowry. It is also pointed out by the learned Government Advocate that there is also a specific allegation in the complaint itself alleging that the petitioner, brother-in-law along with mother-in-law and father-in-law, demanded the defacto complainant to bring 10 lakhs cash and without that cash she could not enter the matrimonial house. Therefore, it is contended by the learned Government Advocate (Crl. Side) that there are enough and sufficient materials available on record to implicate the petitioner who has been arrayed as A-4 in this case and as such there is no ground made out for quashing the proceedings in respect of the petitioner.

4. Mr.Thangarasu, learned counsel for the defacto complainant / second respondent vehemently contended that there are enough materials available on record to implicate the petitioner who has

been arrayed as A-4. It is pointed out by the learned counsel for the defacto complainant/second respondent that there are definite and specific allegations made against the petitioner/A-4 implicating the petitioner for the allegations of demand of dowry and for cruel treatment. The learned counsel for the defacto complainant/second respondent further pointed out certain portion regarding the specific allegations levelled against the petitioner herein.

5. I have carefully considered the rival contentions put forward by either side and also perused the entire materials available on record including the complaint and the defacto complainant's statement recorded under Section 161 of Cr.P.C.

6. A perusal of the complaint discloses certain definite and specific allegations levelled against the petitioner herein who has been arrayed as A-4 in this case. It is seen that the petitioner is the brother-in-law of the defacto complainant. In the complaint, it is specifically mentioned by the defacto complainant to the effect that the petitioner, brother-in-law along with other accused, viz., A-1, A-2 and A-3 who are the husband, mother-in-law and father-in-law of the defacto complainant joined together and demanded the defacto complainant to sign in a paper for consenting another marriage of the defacto complainant's husband, A-1 and in the event of refusing to sign the said document demanded to give 100 sovereign of jewellery with Rs.1,00,000/- cash as dowry. In the complaint, another specific allegation made against the petitioner along with other accused is that the petitioner, A-4, along with other accused, viz., A-2 to A-3, who are the mother-in-law and father-in-law of the defacto complainant to the effect that they demanded 10 lakhs cash and also abused and assaulted the defacto complainant stating that she cannot enter the matrimonial house without Rs.10,00,000/- cash. A perusal of the statement recorded from the defacto complainant under Section 161 Cr.P.C. also discloses the very same specific and definite allegations constituting the offence under Section 498-A I.P.C. and other offences.

7. A decision cited by the learned senior counsel viz., Ramesh V. State of T.N. reported in 2005 SCC (Cri.) 735 is not applicable to the facts of the instant case. The Hon'ble Supreme Court in that decision has held as follows :

"Looking at the allegations in the FIR and the contents of charge-sheet, we hold that none of the alleged offence, viz., Sections 498-A, 406 I.P.C. and Section 4 of Dowry Prohibition Act are made out against her. She is the married sister of the informant's husband who is undisputedly living in Delhi with her family. Assuming that during the relevant time. i.e. between March and

October 1997, when the 6th respondent (informant) lived in Mumbai in her marital home, the said lady stayed with them for some days, there is nothing in the complaint which connects her with an offence under Section 498-A or any other offence of which cognizance was taken. Certain acts of taunting and ill-treatment of the informant by her sister-in-law (the appellant) were alleged but they do not pertain to dowry demand or entrustment and misappropriation of property belonging to the informant."

8. Therefore, the above said findings of the Hon'ble Supreme Court makes it crystal clear that only in the event of allegations of causing insult, making derogatory remarks and behaving rudely against informant and the same not pertaining to dowry demand, then only the offences under Sections 498-A or 406 I.P.C. and Section 4 of the Dowry Prohibition Act, are not attracted. But in the instant case, as already stated, not only in the complaint but also in the statement recorded under Section 161 Cr.P.C. clearly discloses that there are specific and definite allegations levelled against the petitioner herein that the petitioner has ill-treated the defacto complainant cruelly for the purpose of demanding dowry. It is specifically mentioned in the complaint itself to the effect that the petitioner who has been arrayed as A-4 along with other accused, viz., A-1 to A-3, husband, mother-in-law and father-in-law joined together, abused and assaulted the defacto complainant compelling her to sign in the papers for the second marriage and in the event of not signing the said document, they alleged to have demanded 100 sovereign of jewellery and Rs.1,00,000/- cash as dowry. It is also seen from the complaint that there is yet another allegation to the effect that the petitioner A-4 along with other accused, viz., A-2 and A-3, demanded Rs.10 lakhs cash and also abused and assaulted the defacto complainant stating that she should not come to the matrimonial home without a sum of Rs.10,00,000/-. Therefore, this Court has no hesitation to hold that there is a prima facie case is made out against the petitioner herein who has been arrayed as A-4 in this case for the alleged offences under Section 498-A I.P.C. and other Sections mentioned in the charge sheet.

9. For the aforesaid reasons this Court is constrained to dismiss the petition and accordingly this petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. It is

made clear that whatever observations made in this order may not influence the mind of the learned trial Judge.

gg

Sd/
Asst. Registrar

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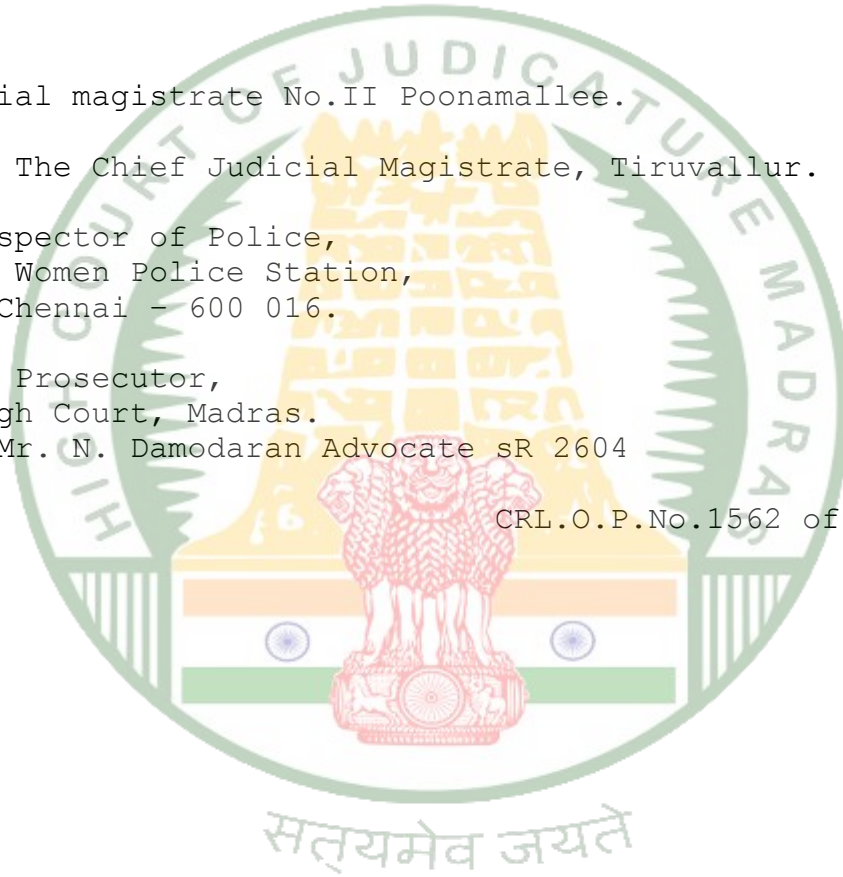
Sub Asst.Registrar

To

1. The Judicial magistrate No.II Poonamallee.
 2. -do- Thro The Chief Judicial Magistrate, Tiruvallur.
 - 3.The Sub Inspector of Police,
W-31, All Women Police Station,
Alandur, Chennai - 600 016.
 - 4.The Public Prosecutor,
Madras High Court, Madras.
- + One cc to Mr. N. Damodaran Advocate sR 2604
KG (co)
sg 24/5/07

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